

U.S. Department of Labor

Office of Administrative Law Judges
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Issue date: 23Oct2001

CASE NO.: 2000-CAA-00018

In the Matter of

RAMACHANDRAN SEETHARAMAN

Complainant

v.

MASSACHUSETTS WATER RESOURCES AUTHORITY

Respondent

**RECOMMENDED DECISION AND ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provisions of section 322(a) of the Clean Air Act (CAA), 42 U.S.C. §7622(a), section 110(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9610(a) and section 507(a) of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §1367(a).

On October 19, 2001, the parties submitted to the undersigned a Joint Motion to Approve Settlement and Dismiss Complaint, to which they attached a Settlement Agreement. The CAA requires that the Secretary must enter into or otherwise approve the settlement of a whistleblower complaint. *See* 42 U.S.C.A. §7622(b)(2)(A); *Beliveau v. U.S. Department of Labor*, 170 F.3d 83, 88 (1st Cir. 1999).¹ The Secretary's participation is effected by the adjudicator's order finding that the settlement is fair, adequate and reasonable. *See* 29 C.F.R. §24.6; *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989).

Review of the agreement reveals that it encompasses the settlement of matters under laws other than the CAA. Regarding such provisions, the Secretary has stated,

¹ Approval by the Secretary is not required under either the CERCLA or the FWPCA. *Sayre v. Alyeska Pipeline Service Co.*, ARB Nos. 99-091 and 99-092, ALJ No. 1997-TSC-6, slip op. at 2 n.1 (ARB Sept. 30, 1999).

[The Secretary's] authority over settlement agreements is limited to such statutes as are within [the Secretary's] jurisdiction and is defined by the applicable statute. *See Aurich v. Consolidated Edison Company of New York, Inc.*, Case No. [86-]CAA-2, Secretary's Order Approving Settlement, issued July 29, 1987; *Chase v. Buncombe County, N.C.*, Case No. 85-SWD-4, Secretary's Order on Remand, issued November 3, 1986.

Poulos v. Ambassador Fuel Oil Co., Inc., USDOL/OALJ Reporter (HTML), OALJ No. 1986-CAA-1 at 1 (November 2, 1987) (citations and italics in original). I have therefore limited my review of the agreement to determining whether the terms thereof are a fair, adequate and reasonable settlement of the Complainant's allegations that the Respondent violated the CAA.

Upon review, I find that the Settlement Agreement is a fair, adequate and reasonable settlement of the complaint. Accordingly, I recommend the agreement be **APPROVED** and that the complaint be **DISMISSED WITH PREJUDICE**.

SO ORDERED.

A
DANIEL F. SUTTON
Administrative Law Judge

Boston, Massachusetts
DFS:cmm

NOTICE: This Recommended Decision and Order will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. §24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210. Such a petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall be served on all parties and on the Chief Administrative Law Judge. 29 C.F.R. §24.8 (2000).